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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,563	03/31/2004	Zhubin Wang	ORACL-01513US0	6910
80548	7590	02/24/2009		
Fliesler Meyer LLP 650 California Street 14th Floor San Francisco, CA 94108			EXAMINER MITCHELL, JASON D	
			ART UNIT	PAPER NUMBER
			2193	
			MAIL DATE	DELIVERY MODE
			02/24/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/814,563

Applicant(s)

WANG ET AL.

Examiner

Jason Mitchell

Art Unit

2193

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-4,6-10,13-17 and 20-24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/Lewis A. Bullock, Jr./
Supervisory Patent Examiner, Art Unit 2193

/Jason Mitchell/
Examiner, Art Unit 2193

Continuation of 11. does NOT place the application in condition for allowance because:

In the 2nd full par. on pg. 8, the applicants state:

... Applicant respectfully submits that McNeely, in view of Dubovsky, does not disclose or render obvious a plurality of different software test tools, wherein each software test tool is associated with a different tool-specific scripting language, as defined by Claim 1. Instead, Applicant respectfully submits that McNeely, in view of Dubovsky, merely discloses or renders obvious a single test tool having a device-generic, but test-tool specific, scripting language.

The examiner respectfully disagrees. The applicants have misrepresented the rejection by re-mapping it so that McNeely's means for editing the "abstract command language" script is applied to the "test tool" limitation. As discussed below this is not the basis for the rejection.

The claim recites "a plurality of different software test tools, wherein each ... is associated with a ... tool-specific scripting language" and "a plurality of generic interface commands". McNeely discloses a plurality of devices. Each device presents a device specific command interface which is used in testing the device (col. 13, lines 57-62 "device-specific commands ... may be tool command language commands"). A device specific command interface which is used in testing a device can be reasonably read on the broadly claimed "test tool ... associated with a ... scripting language". Specifically, each device has a specific set of commands (a language) which can be used to control or 'script' the actions of the device in order to test the device (thus disclosing a 'test-tool'). Further, McNeely discloses "a plurality of generic interface commands" (e.g. col. 15, lines 47-52 "an abstract command language").

In the last par. on pg. 8 the applicants state:

It was further asserted in the Office Action that McNeely discloses "a test case input file stored on the computer readable medium, that contains a plurality of generic interface commands that are abstractions independent of any of the tool specific scripting languages (Col. 15, lines 47-52 "an abstract command language command (ST4)"). Applicant respectfully traverses this assertion. As described above, McNeely discloses a single tool-specific language that is device-generic. Thus, while test cases compatible with McNeely may be used to test a variety of devices, the test cases must be used with the test tool described in McNeely. However, in the embodiment defined by Claim 1, the user is not tied to a single test tool, and instead, can write test cases in a tool-generic language, which can then be used to test different graphical user interfaces using different test tools.

The examiner respectfully disagrees. As discussed above this argument relies on a misrepresentation of the rejection. Each device to be tested presents a different test tool with a test tool specific language (col. 13, lines 57-62 "device-specific commands ... may be tool command language commands"). Commands for these device specific test tools are generated from a test tool generic command by McNeely's "abstract command language" (e.g. col. 15, lines 47-52). Accordingly it should be seen that a user of McNeely's system is not "tied to a single test tool".

Continuation of 13. Other:

The amendments to claims 8 and 15 have overcome the previous rejections of those claims .